

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

December 22, 2016

The Honorable Denise Turner Roth
Administrator
General Services Administration
1800 F Street, NW
Washington, D.C. 20405

Dear Administrator Roth:

We are writing pursuant to the statutory “Seven Member Rule” to obtain unredacted copies of documents related to the imminent breach-of-lease and conflict-of-interest issues created by President-elect Donald Trump’s ownership interest in the lease with the U.S. Government for the Trump International Hotel building in Washington, D.C.

Ranking Member Elijah E. Cummings and Subcommittee on Government Operations Ranking Member Gerald E. Connolly, along with Transportation and Infrastructure Committee Ranking Members Peter DeFazio and André Carson, first requested these documents in a letter to you on December 14, 2016.¹ Their letter requested that the documents be produced by December 20, 2016, but GSA did not produce the requested documents by that time.

The Seven Member Rule is unique authority passed by Congress and signed by the President in 1928 that requires any executive agency to “submit any information requested of it relating to any matter within the jurisdiction of the committee” when requested by seven members of the Committee on Oversight and Government Reform.²

¹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, Ranking Member Peter A. DeFazio, House Committee on Transportation and Infrastructure, Ranking Member Gerald Connolly, Subcommittee on Government Operations, and Ranking Member André Carson, Subcommittee on Economic Developments, Public Buildings and Emergency Management, to the Honorable Denise Turner Roth, Administrator, General Services Administration (Dec. 14, 2016) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2016-12-14.EEC%20DeFazio%20Connolly%20Carson%20to%20Roth%20re%20Trump%20Hotel%20Conflicts%20....pdf>).

² 5 U.S.C. § 2954. 45 Stat. 996 (1928). The statutory language refers to the “Committee on Government Operations.” The Committee was renamed several times since the statute was originally drafted, and in the 110th Congress it was renamed the Committee on Oversight and Government Reform. References in law to the Committee on Government Operations are treated

For example, in *Henry A. Waxman v. Donald L. Evans*, United States District Court Judge Lourdes G. Baird granted sixteen members of the Committee summary judgment in a case brought against the Department of Commerce to enforce the Seven Member Rule. The court ruled that the Department was required to provide adjusted data from the 2000 census.³

Similarly, in September, the State Department produced an unredacted email exchange between former Secretary of State Colin Powell and former Secretary of State Hillary Clinton in response to a request sent by Oversight Committee Members under the “Seven Member Rule.”⁴

Under House Rule X, the Oversight Committee has jurisdiction over “Government management and accounting measures generally,” as well as the “Overall economy, efficiency, and management of government operations and activities, including Federal procurement.”⁵ In addition, as the primary investigative body in the House, the Committee also has the broad authority “at any time to conduct investigations” of “any matter.”⁶

Pursuant to the Seven Member Rule, please provide unredacted copies of the following documents by 5 p.m. on December 28, 2016:

1. a list of any currently available, unleased space within the hotel;
2. a copy of the fifth amendment to the lease;
3. a copy of Exhibit G to the lease, which lists the ownership of the leasing corporate entity;
4. all monthly expense and profit projections;
5. any legal memos regarding potential conflict of interest of Mr. Trump having an ownership interest in the hotel and serving as President;
6. the first monthly report submitted to GSA by the Trump Organization in November describing revenues and expenses for September and, when it is provided this month, the next monthly report describing revenues and expenses for October; and

as referring to this Committee.

³ *Henry A. Waxman v. Donald L. Evans*, CV 01-4530 LGB (AJWx) (C.D. Cal. 2002).

⁴ Letter from Julia Frifield, Assistant Secretary Legislative Affairs, Department of State, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Rec'd Sept. 7, 2016) (online at <https://democrats-oversight.house.gov/news/press-releases/cummings-releases-full-powell-email-advising-clinton-on-personal-email-use>).

⁵ House rule X, clause (1)(n).

⁶ House rule X, clause (4)(c)(2).

7. a summary or analysis of the bankruptcy of the previous tenant leasing the Old Post Office.

If you have any questions about this request, please contact Krista Boyd on my staff at (202) 225-5051. Thank you for your cooperation with this matter.

Sincerely,

Eligh E. Cummings

Wm. Laux Clay

Steve S. Lynn

J. Cooper

Ann E. Conley

Ted W. Linn

Brian W. Brubaker

Mark F. Se.

Brendan J. Boyle

Patricia

Michelle Lujan Bingham

cc: The Honorable Jason Chaffetz, Chairman

United States Senate

WASHINGTON, DC 20510

January 13, 2016

Denise Turner Roth
Administrator
General Services Administration
1800 F St., NW
Washington, D.C. 20405

Dear Administrator Roth,

We write today regarding our December 1, 2016, letter requesting information on how the General Services Administration (GSA) plans to identify and mitigate any potential conflicts of interest, and any potential violations of the lease agreement GSA executed with affiliates of the Trump Organization to redevelop and manage the Old Post Office building in Washington, DC. In response to our initial letter, GSA provided a staff briefing on December 14, 2016, addressing several issues raised in the letter, and also provided a written response on January 5, 2017.

During the staff briefing, GSA representatives promised to provide us with additional information in writing about contractual disputes and GSA's communications regarding the lease agreement with Trump Old Post Office, LLC. GSA's January 5th letter, however, did not include all of the requested information. We respectfully renew our request for the following information, no later than January 17, 2016:

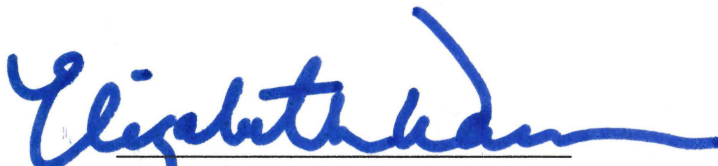
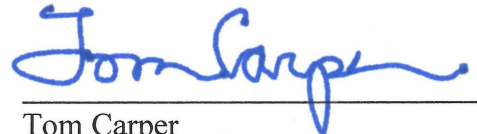
1. All instances where political appointees from GSA have been involved in contractual disputes.
2. All terminations of GSA contracts due to a non-monetary breach.
3. Communications between GSA officials and Trump Old Post Office, LLC.
4. Communications between the Agency Review Team and the Trump Transition Team.
5. The list of officers of Trump Old Post Office, LLC.
6. The list of contracting office representatives and the contracting officer assigned to this lease.
7. All of the information requested by Congressman Elijah Cummings in his December 14, 2016 letter to GSA.

request that you provide us with any and all communications related to this issue between the GSA and the Trump Administration.

If you or members of your staff have any questions about this request, please feel free to ask your staff to contact Susannah Savage with Senator Warren's staff at 202-224-1345 and Roberto Berrios with Senator Carper's staff at 202-224-2441. Thank you very much for your prompt attention to this matter.

With best personal regards, we are

Sincerely yours,


Elizabeth Warren
United States Senator
Tom Carper
United States Senator

Enclosure

Congress of the United States
Washington, DC 20515

December 14, 2016

The Honorable Denise Turner Roth
Administrator
General Services Administration
1800 F Street, NW
Washington, D.C. 20405

Dear Administrator Roth:

We write to follow up on our request from November 30, 2016, for information about how the General Services Administration (GSA) plans to address the imminent breach-of-lease and conflict-of-interest issues created by President-elect Donald Trump's lease with the U.S. Government for the Trump International Hotel building in Washington, D.C.¹

Briefing from GSA Deputy Public Building Service Commissioner

First, we would like to thank you for making the Deputy Commissioner of GSA's Public Buildings Service available for the briefing that he provided to our staffs on December 8, 2016. The briefing was very helpful in clarifying GSA's position on a number of issues relating to this lease.

Most importantly, the Deputy Commissioner informed our staff that GSA assesses that Mr. Trump will be in breach of the lease agreement the moment he takes office on January 20, 2017, unless he fully divests himself of all financial interests in the lease for the Washington D.C. hotel. The Deputy Commissioner made clear that Mr. Trump must divest himself not only of managerial control, but of all ownership interest as well.

Specifically, section 37.19 of the lease agreement provides: "No member or delegate to Congress, or elected official of the Government of the United States ... shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom."²

¹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, Ranking Member Peter A. DeFazio, House Committee on Transportation and Infrastructure, Ranking Member Gerald Connolly, Subcommittee on Government Operations, and Ranking Member André Carson, Subcommittee on Economic Developments, Public Buildings and Emergency Management, to the Honorable Denise Turner Roth, Administrator, General Services Administration (Nov. 30, 2016) (online at <http://democrats.oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2016-11-30.EEC%20Defazio%20Connolly%20%26%20Carson%20to%20GSA.pdf>).

² General Services Administration, *Ground Lease, By and Between the United States of America (as "Landlord")*

The Deputy Commissioner confirmed repeatedly during the briefing that GSA reads this provision as we do, which is a categorical ban on the President of the United States or any other elected official having any financial interest in this lease, or taking any financial benefit from it. He explained that this provision is a standard clause that is included in many GSA leases to create a "level playing field" and protect the interests of the American people.

The Deputy Commissioner also rejected alternative interpretations of this provision offered by others. For example, one former procurement official has suggested that this lease provision theoretically could be interpreted to ban only officials who were elected at the time the lease was signed, but not those who are elected afterwards.³ The Deputy Commissioner confirmed that GSA's position is that this provision applies to all elected officials, regardless of when they are elected.

Going forward, the Deputy Commissioner explained that if the President-elect does not divest himself of all financial interest in the hotel lease agreement, the contracting official handling the lease agreement at GSA would usually send a letter giving the lessee 30 days to review the matter and respond to GSA. If the breach is not resolved satisfactorily, GSA would then normally bring the matter before the U.S. Civilian Board of Contract Appeals.

Communications with Trump Officials About Imminent Breach

In response to the questions in our letter on November 30, 2016, the Deputy Commissioner informed our staffs that GSA received no communications from Mr. Trump or his associates about this issue after he won the Republican primary, when it became clear that a breach of the lease agreement was at least a possibility.

In addition, the Deputy Commissioner informed our staffs that GSA received no communications from Mr. Trump or his associates about this issue after he won the election in November, when it became clear that a potential breach of this lease agreement was imminent.

In fact, the Deputy Commissioner informed our staffs that GSA has received no communications to date from Mr. Trump's business organization about this issue. This raises serious questions about how Mr. Trump plans to proceed.

When our staffs asked if GSA attempted to contact Mr. Trump or his associates about this issue, the Deputy Commissioner stated that GSA informed the Trump transition team about concerns raised by us and others about the imminent breach, but that GSA has heard nothing in response to date.

and Trump Old Post Office, LLC) (as "Tenant") (GS-LS-11-1307) (Aug. 5, 2013) (online at [www.gsa.gov/portal/mediaId/182239/fileName/Segment_001_of_OPO_Ground_Lease_\(2013\).action](http://www.gsa.gov/portal/mediaId/182239/fileName/Segment_001_of_OPO_Ground_Lease_(2013).action)).

³ *To Move Into White House, Trump May Have to Dump DC Hotel*, Associated Press (Dec. 1, 2016) (online at www.seattletimes.com/business/lawyers-trump-has-to-sell-dc-hotel-before-taking-office/).

Current Conflicts of Interest

The Deputy Commissioner was very helpful in explaining the current status of the lease agreement and GSA's interpretation of its provisions, but his briefing raised a host of concerns about serious conflicts of interest that already exist and may become even more exacerbated going forward.

For example, the Deputy Commissioner explained that, over the past several years, the top official from Mr. Trump's business organization that GSA has worked with on the lease is Mr. Trump's daughter, Ms. Ivanka Trump. The Deputy Commissioner explained that Ms. Trump has been GSA's primary contact from the Trump Organization regarding the negotiations for, and implementation of, the lease for the Old Post Office Building. At the same time, Ms. Trump also serves on the Trump transition team—which GSA contacted to convey concerns about how to handle the breach of the hotel lease.⁴

In other words, Ms. Trump is all of the following—the President-elect's daughter, a top presidential transition team official, a lessee under the contract GSA oversees, and the primary contact for GSA on the lease. The conflicts of interest are obvious.

Future Conflicts of Interests

Going forward, our staffs asked about the possibility that a new GSA Administrator or General Counsel selected by Mr. Trump might seek to overrule current career officials handling this lease agreement. Specifically, our staffs asked how GSA would respond if a new Administrator or General Counsel of GSA directed career officials to amend the lease agreement to remove the prohibition against elected officials, reversed GSA's legal interpretation of the lease provision, or simply refused to support the agency's position before the U.S. Board of Contract Appeals or any subsequent legal action.

In response, the Deputy Commissioner asserted that GSA contracting officials are independent, base their decisions on the laws and regulations governing the contracts they oversee, and would not change their positions based on political influence. However, he did not address the broader conflicts of interest that this issue poses, stating that GSA relies on the Office of Government Ethics and the Department of Justice for guidance on these questions.

Requests for Additional Information

As our staffs discussed at the briefing with the Deputy Commissioner, we request the following documents—in unredacted form—to continue investigating this issue:

⁴ *Trump Adds Vice Chairs to Transition Team, Including Several Women*, Politico (Nov. 29, 2016) (online at www.politico.com/blogs/donald-trump-administration/2016/11/trump-adds-vice-chairs-to-transition-team-including-several-women-231975).

1. a list of any currently available, unleased space within the hotel;
2. a copy of the fifth amendment to the lease;
3. a copy of Exhibit G to the lease, which lists the ownership of the leasing corporate entity;
4. all monthly expense and profit projections;
5. any legal memos regarding potential conflict of interest of Mr. Trump having an ownership interest in the hotel and serving as President;
6. the first monthly report submitted to GSA by the Trump Organization in November describing revenues and expenses for September and, when it is provided this month, the next monthly report describing revenues and expenses for October; and
7. a summary or analysis of the bankruptcy of the previous tenant leasing the Old Post Office.

Please provide these documents by Friday, December 20, 2016. Thank you for your continued cooperation on this request.

Sincerely,



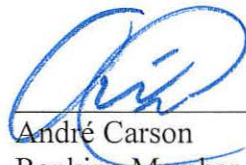
Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform



Peter A. DeFazio
Ranking Member
Committee on Transportation and
Infrastructure



Gerald E. Connolly
Ranking Member
Subcommittee on Government
Operations



André Carson
Ranking Member
Subcommittee on Economic
Development, Public Buildings and
Emergency Management

The Honorable Denise Turner Roth
December 14, 2016
Page 5

cc: The Honorable Jason Chaffetz
Chairman, Committee on Oversight and Government Reform

The Honorable Bill Shuster
Chairman, Committee on Transportation and Infrastructure

The Honorable Mark Meadows
Chairman, Subcommittee on Government Operations

The Honorable Lou Barletta
Chairman, Subcommittee on Economic Developments, Public Buildings and Emergency
Management



January 3, 2017

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
House of Representatives
Washington, DC 20515

Dear Representative Cummings:

Thank you for your letter dated December 22, 2016, from 11 members of the House Committee on Oversight and Government Reform requesting certain records related to the Old Post Office pursuant to 5 U.S.C. § 2954 (the "Seven Member Rule"). Your inquiry has been referred to me for response. Specifically, the request sought:

1. A list of any currently available, unleased space within the hotel;
2. A copy of the fifth amendment to the lease;
3. A copy of Exhibit G to the lease, which lists the ownership of the leasing corporate entity;
4. All monthly expense and profit projections;
5. Any legal memos regarding potential conflict of interest of Mr. Trump having an ownership interest in the hotel and serving as President;
6. The first monthly report submitted to GSA by the Trump Organization in November describing revenues and expenses for September and, when it is provided this month, the next monthly report describing revenues and expenses for October; and
7. A summary or analysis of the bankruptcy of the previous tenant leasing the Old Post Office.

Per the Old Post Office Building Redevelopment Act of 2008, Congress directed the General Services Administration (GSA) to redevelop this underutilized historic building. GSA ran a fair and open competition, subject to careful and rigorous review, which resulted in the selection of the Trump Organization as the preferred private sector entity to redevelop the Old Post Office.

In 2013, following the open competition, selection of a contractor, and review of its material terms by Congress, GSA signed a lease with the Trump Old Post Office, LLC (the LLC). In accordance with the lease, the LLC will pay GSA rent for 60 years to use the Old Post Office facility as a hotel. Additionally, the lease provides for profit sharing with GSA upon the meeting of certain financial benchmarks. Finally, the lease ensures the historic preservation and integrity of the Old Post Office building.

Consistent with the Seven Member Rule and judicial and Department of Justice, Office of Legal Counsel opinions (see e.g., 6 Op. O.L.C. 632 (1982) and 28 Op. O.L.C. 79 (2004)), enclosed please find attachments responsive to your request. Attachment A contains unredacted copies of: (a) the fifth amendment to the Old Post Office lease, (b) Exhibit G to the lease, (c) the 2017 budget estimate, and (d) the monthly income statements from September and October 2016. The documents are produced pursuant to a request under 5 U.S.C. § 2954 and contain

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privileged or confidential information protected from public release in accordance with the Privacy Act, Freedom of Information Act, and/or other statutory or regulatory protections. The provision of the records to members of the House Committee on Oversight and Government Reform pursuant to a request in accordance with 5 U.S.C. § 2954 does not waive GSA's ability to assert a privilege regarding this material in the future. Please do not further disseminate this information without prior written coordination and approval from the General Services Administration. Attachment B contains redacted versions, previously provided, which can be publicly shared. Please note that GSA does not have a list of unleased space within the hotel.

Finally, as for the previous tenant that leased the Old Post Office, that entity filed for bankruptcy due to a variety of reasons, including market forces beyond GSA's control. GSA drafted certain protections in the present lease to protect the Government, including obtaining a security deposit; equity guaranty; and, a bad acts guaranty. In the event of a bankruptcy, the lease contains terms and conditions to protect the interests of the Government through remedies available under the United States Bankruptcy Code, 11 U.S.C. §§101 et seq., as may be amended from time to time, and if the lease is rejected under the Bankruptcy Code, the lease contains additional terms to address and protect the Government's interest.

If you have any questions, please contact me at (202) 501-0563.

Sincerely,



Lisa A. Austin
Associate Administrator

cc:

The Honorable Jason Chaffetz, Chairman
The Honorable William Lacy Clay
The Honorable Stephen Lynch
The Honorable Jim Cooper
The Honorable Gerald E. Connolly
The Honorable Ted Lieu
The Honorable Bonnie Watson Coleman
The Honorable Mark DeSaulnier
The Honorable Brendan F. Boyle
The Honorable Peter Welch
The Honorable Michelle Lujan Grisham

Trump Old Post Office LLC

725 Fifth Avenue, 26th Floor
New York, NY 10022

January 11, 2017

VIA EMAIL AND OVERNIGHT DELIVERY

United States General Services Administration
Portfolio Management - Suite 7600
7th & D Streets, S.W.
Washington, D.C. 20407
Attention: Kevin Terry

Re: Ground Lease (as previously amended and as may be further amended from time to time, the "**Lease**"), dated as of August 5, 2013, between the United States of America, acting by and through the Administrator of General Services and Trump Old Post Office LLC¹

Dear Kevin:

In connection with my letter to you dated December 16, 2016, regarding the transfer by Donald J. Trump of his interests in Trump Old Post Office Member Corp to DJT Holdings Managing Member LLC (the "**Transfer**"), as requested, attached hereto as Exhibit A is a copy of the current Organizational Chart, and attached hereto as Exhibit B is a copy of the Organizational Chart that will be current following the consummation of such Transfer. As discussed, we anticipate the Transfer to be consummated on January 19, 2017, at which time we will send you a copy of the executed transfer document.

Please do not hesitate to contact us if you have any questions or concerns.

Very truly yours,

TRUMP OLD POST OFFICE LLC,
a Delaware limited liability company

By:

(b) (6)

Name: Adam L. Rosen
Title: Authorized Signatory

¹ Capitalized terms used but not defined herein shall have the meaning given to them in the Lease.

cc: United States General Services Administration
Office of Regional Counsel, Suite 7048
7th & D Streets, S.W.
Washington, DC 20407
Attn: Regional Counsel

Reno & Cavanaugh PLLC
455 Massachusetts Avenue, NW, Suite 400
Washington, DC 20001
Attn: Barbara Wachter Needle, Esq.

Exhibit A

(see attached)

(b) (4)

Exhibit B

(see attached)

(b) (4)



Preserving America's Heritage

MINUTES

FALL BUSINESS MEETING

ADVISORY COUNCIL ON HISTORIC PRESERVATION

DECEMBER 1, 2016

WASHINGTON, D.C.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637
Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov

MEETING
ADVISORY COUNCIL ON HISTORIC PRESERVATION
Russell Senate Office Building, Kennedy Caucus Room
Washington, D.C.
December 1, 2016

PROVISIONAL AGENDA

Call to Order 8:30 a.m.

- I. Chairman's Welcome
- II. Swearing-In Ceremony
- III. Transition
- IV. Section 106 Issues
 - A. Small Federal Handles and Tribal Consultation Issues
 - B. Broadband on Federal Property
 - C. Proposed Exemption for Railroad Rights-of-Way under the Fixing America's Surface Transportation (FAST) Act
- V. ACHP Native American Affairs Committee Activities
- VI. Historic Preservation Policy and Programs
 - A. Building a More Inclusive Preservation Program
 - 1. Youth Initiatives
 - 2. ACHP Policy Statement on Diversity and Inclusiveness
 - B. Preservation50 and the ACHP Public Policy Initiative
 - C. Policy Statement on Historic Preservation and Community Revitalization
 - D. White House Council on Climate Preparedness and Resilience
 - E. Historic Preservation Legislation in the 114th Congress
 - 1. Historic Preservation Fund Reauthorization and ACHP Amendments
 - 2. FY 2017 Interior Appropriations
 - 3. National Defense Authorization Act and Other Bills
- VII. New Business
- VIII. Adjourn

IN ATTENDANCE

Milford Wayne Donaldson, Chairman
Leonard Forsman, Vice Chairman
Luis Hoyos
Dorothy Lippert
Robert Stanton
Jordan Tannenbaum
Brad White

Architect of the Capitol

Hon. Stephen T. Ayers

Secretary of Agriculture

Represented by:

Leslie Jones
Deputy Under Secretary
for Natural Resources
and Environment

Secretary of Defense

Represented by:

Maureen Sullivan
Deputy Assistant
Secretary of Defense
(Environment, Safety &
Occupational Health)

Administrator, General Services Administration

Represented by:

Beth Savage
Director, Center for
Historic Buildings,
Public Buildings
Service

Secretary of Homeland Security

Represented by:

Jeffery Orner
Senior Real Property
Officer and Chief
Readiness Support
Officer

Secretary of Housing and Urban Development

Represented by:

Danielle Schopp
Director, Office of
Environment and
Energy

Secretary of the Interior

Represented by:

Michael Bean
Principal Deputy
Assistant Secretary for
Fish, Wildlife, and
Parks

Secretary of Transportation

Represented by:

Barbara McCann
Director, Office of
Policy Development,
Strategic Planning, and
Performance

Secretary of Veterans Affairs

Represented by:

Stella Fiotes
Executive Director,
Office of Construction
and Facilities
Management

President, National Conference of State Historic
Preservation Officers

Elizabeth Hughes
Maryland SHPO

Chair, National Trust for Historic Preservation

Represented by:
Thomas Cassidy
Vice President for
Government Relations
and Policy

OBSERVERS

Chair, National Alliance of Preservation Commissions

Represented by:
Stephanie Paul
Program Director

General Chairman, National Association of Tribal Historic
Preservation Officers

Represented by:
D. Bambi Kraus
NATHPO President

President, ACHP Alumni Foundation

Katherine Slick
Historic Preservation Consultant

In attendance and participating in the meeting were ACHP Executive Director John M. Fowler and Director of the Office of Federal Agency Programs Reid Nelson.

PROCEEDINGS

Chairman's Welcome

Advisory Council on Historic Preservation (ACHP) Chairman Milford Wayne Donaldson opened the fall business meeting at 8:30 a.m. He asked Leonard Forsman to lead the Pledge of Allegiance. He asked Stephen Ayers to give an overview of the Kennedy Caucus Room. Mr. Ayers mentioned the celebration of the completion of the Capitol Dome restoration project the next day, as well as preparations for the inauguration and the freshmen House members choosing their office suites. Chairman Donaldson asked members to introduce themselves. He then announced the appointments of Luis Hoyos as a new expert member and Mr. Forsman as the new vice chairman.

Senator Maria Cantwell came to the front to administer the oath to Mr. Forsman. She thanked the ACHP for their work in helping preserve what is unique about the nation's history, heritage, and culture. Vice Chairman Forsman thanked the ACHP and the tribal nations of the U.S. for supporting him. He said it has been an honor to represent the tribes and now the rest of the United States. Chairman Donaldson then administered the oath of office to Mr. Hoyos. He said he looks forward to serving and making this country better.

Chairman Donaldson introduced Leslie Jones of the Department of Agriculture (USDA). The minutes were adopted with a motion from Mr. Ayers and second by Jordan Tannenbaum. The chairman mentioned the completion of 65 Section 106 Success Stories, and he encouraged members to submit story ideas.

Chairman Donaldson appointed Shayla Shrieves recorder for the meeting. The agenda was adopted with a motion by Maureen Sullivan and second by Dorothy Lippert. The chairman noted there are now 905

Preserve America Communities with the recent addition of Orange Mound in Memphis, Tennessee. There will be a local designation event in December. Two new Preserve America Stewards have been designated, making a total of 58.

Chairman's Award

Chairman Donaldson said the award was presented the previous night to the Painted Bluff Graffiti Removal and Camouflage Project in Marshall County, Alabama. Robert Stanton gave an overview of the award and said the uplifting presentation was a salute to the richness of American Indian heritage and archaeological masterpieces.

Presentation

Michael Kaczor of the Forest Service came to the podium. He is retiring after 25 years of federal service. Chairman Donaldson presented him with a commendation certificate for his work in heritage and historic preservation. Mr. Kaczor thanked the past and present members of the ACHP for the education he has received along the journey through his career.

Chairman Donaldson noted Elizabeth Hughes' term as president of the National Conference of State Historic Preservation Officers (NCSHPO) will expire before the next ACHP meeting. She mentioned it has been a pleasure to be a part of the ACHP and appreciated the opportunity to spend time here.

Transition

When Administrations change, the ACHP, like all other federal agencies, goes through the transition process with the incoming officials. The staff has been working on this, both formally and informally. Chairman Donaldson noted this transition process has been slower getting started than in previous years, and the ACHP has not been provided with an official transition team or contact point in the incoming Administration. The ACHP is different from most federal agencies, in that its appointed members serve terms and do not submit their resignations or leave at the end of the current Administration. The chairman's term goes through June 10, 2017 and beyond, dependent upon when the President appoints a new chairman.

John Fowler said the political appointees at the agencies will change by the next business meeting. One of the valuable assets is the ACHP Alumni Foundation; there are people who had served in previous Administrations who are pursuing ACHP interests in the transition as it moves forward.

Mr. Stanton said in preparing for a new Administration, those involved develop documents or statements that fall within two categories: to fully acquaint the new Administration with the basic laws governing the department to make sure they understand what is on the books; and, what has been the emphasis or priorities of the outgoing Administration relative to carrying out the law. The basic idea is to provide information on what the law is and what the priorities have been, so the new Administration can make its adjustments.

Brad White talked about the recent themes of Preservation50 and telling the full story of America. It is important that the election does not impede that vision. Michael Bean said in the Department of the Interior (DOI), the process is moving slowly. There has been a team leader appointed for the transition. Chairman Donaldson said the goal of the discussion is to get member suggestions for how the ACHP addresses the incoming Administration. The ACHP will be putting together briefing papers.

Mr. Ayers said the Federal Agency Programs (FAP) Committee had a good discussion about transition and noted a continued desire to support the goals of the Community Revitalization and Historic Preservation Policy Statement. They suggested showing examples where historic preservation solutions

have benefitted rural communities, including the delivery of broadband and other utilities. Also, the ACHP should be looking at the successes and challenges experienced in reviewing the wave of projects funded by ARRA in 2009 in anticipation of potential development on this scale with infrastructure in the future. He said the ACHP should be prepared to make the case that preservation makes good business sense, especially when it is a component of a rehabilitation project that uses tax credits.

Jeff Orner said at the Department of Homeland Security (DHS), one of the first things the transition team has asked for was a tour of the St. Elizabeths campus. He is encouraged that they know the project is going on. Vice Chairman Forsman said the tribes are interested in the infrastructure projects. Bipartisan accomplishments are important. Mr. Stanton said something to be aware of is that the transition team considers input from federal agencies and also views from constituent groups. The ACHP needs to be aware its voice is not the only one that will be put forth.

Mr. White said the Preservation Initiatives (PI) Committee discussed how the President or his cabinet can be involved in awards for private investment in historic preservation. Other opportunities might include enhancing the Preserve America program, highlighting the economic benefits of historic preservation itself and the tax credits, and promoting heritage tourism. He sees it as a potential opportunity for a rural-regional development strategy.

Barbara McCann said the new Administration is looking for public-private partnerships and innovative financing mechanisms rather than straight federal funds. She said the Department of Transportation (DOT) has a new Build America Bureau that is helping with loan programs. She could arrange a meeting with ACHP members and Build America workers.

Mr. Tannenbaum said his museum's issue now is vacancies, and they are trying to fill them quickly. His is a successful model public-private partnership agency. Some of the employees are federal and some are "donated" positions. He suggested the ACHP look for new partnerships with new organizations to work with. Ms. Hughes said streamlining business opportunities for folks is important. She has talked about if states and tribes had GIS systems that were well developed where data could be accessed easily, that would make a real difference to these projects moving quickly. She said they do not have the resources to do that. It would be helpful to include that in conversations.

Ms. Jones suggested emphasizing rural opportunities; opportunities for continuing story-telling, fine tuning success stories. Mr. Fowler said preservation is a bipartisan issue. Tom Cassidy discussed some issues Donald Trump talked about on the campaign trail. He said the National Trust has good stories to tell and build upon. An issue is how to bring more private investment to support the federal historic building portfolio. It is important the agencies say what is important to them when meeting with the transition team members. The ACHP can feed information to help make the argument for certain issues.

Preservation50

Mr. White said since the summer of 2015, the ACHP has been engaged with its members to provide statements on challenges and opportunities facing preservation with a particular focus on the national preservation program. A consolidated statement of opportunities and challenges was prepared, posted for comment last January, and revised and posted again in May. To get a better sense of policy and program priorities the ACHP conducted an informal, online survey through the Preservation50 partnership website. Several ACHP members participated in forums at Goucher College and the California Preservation Foundation on the future of preservation.

A Preservation50 Steering Committee also was formed to oversee development. In September, the ACHP released the first draft of goals, strategies, and recommendations. Public comments were used to prepare a revised statement and consolidate a number of similar ideas. The ACHP received 35 comments from agencies or individuals in the last go-round. Today the members are being asked to approve the

Preservation50 report with the policy recommendations, subject to further refinement and possible reordering of the recommendations for transmittal and implementation purposes, under Steering Committee oversight.

Following ACHP approval, there will be further discussion of which priorities are appropriate in the short-term or longer term, as well as strategies for moving forward. The ACHP has identified 12 principal issue areas with 45 recommendations that generally fall into three sets of priorities—first, maintaining and strengthening public and political support for the program while enhancing public engagement; second, improving the preservation program’s infrastructure and program component processes; and third, the linkages that help make the program work through partnerships, training, and education, and related implementation strategies.

Mr. White moved that the ACHP approve the report entitled *The National Historic Preservation Program at 50: Priorities and Recommendations for the Future* (November 2016); direct the ACHP’s Preservation50 Steering Committee to oversee further refinement and possible reordering of the recommendations for implementation purposes; and direct the chairman to transmit the report in whole or in part to the incoming Administration, the Congress, and other parties as appropriate and ensure its distribution to the preservation community and the public.

Mr. Hoyos seconded it. At this time, Vice Chairman Forsman had the gavel. He said he attended the National Congress of American Indians convention and got a resolution passed recognizing the 50th anniversary of the National Historic Preservation Act (NHPA).

Ms. Jones asked about several recommendations specific to budget, saying as a federal agency her budget is what the President puts forward. She said she offered edits to the language in the statement to put agencies in a better spot in putting forth budget proposals. She recommended that consideration be given to the edits.

Chairman Donaldson returned to the meeting. Mr. White said the ACHP’s job is to advise the President and Congress. Beth Savage asked if the motion could be clarified to discuss editing the language. Mr. White said he did not want to change the motion. Mr. Fowler said the steering committee could discuss the changes in language. Chairman Donaldson said the refinements could be addressed. The motion passed unanimously through a voice vote. Chairman Donaldson said he appreciated the staff work.

Section 106 Issues

Regarding Small Federal Handles, Chairman Donaldson said the issue has become very visible in recent months with the Dakota Access Pipeline (DAPL) controversy. This is a case where the ACHP and the Army Corps of Engineers have disagreed over the sufficiency of Appendix C to meet the requirements of Section 106. There has been tremendous public protest. He asked Reid Nelson to come to the table.

Mr. Nelson said the ACHP has been in discussions with the Corps on ways to resolve the ACHP’s long-standing concerns about the Corps’ use of Appendix C since it was issued by the Corps in 1990. Critical to the discussion is how best to address small federal handles. Last spring a work group was convened to examine how the Section 106 regulations are applied when an agency has a limited role in approving a project. He discussed the issues the work group has been addressing. The most important piece is agreeing to develop ACHP guidance that addresses what might be a reasonable and good faith effort to identify historic properties and resolve effects to them when there is a limited federal action.

As part of the DAPL controversy, the Administration decided to conduct several tribal consultation meetings. Valerie Hauser went to every meeting across the country. Vice Chairman Forsman went to two meetings. He said DAPL has brought to light issues regarding tribal consultation and review of multi-state projects that require federal permits. He noted that attendance at the meetings was a mixture of

younger and older tribal leaders, with a strong commitment to sovereignty and self-governance and their culture and history and cultural landscapes, and the importance of preserving sacred places and natural resources as a function of tribal nations' survival. DOI, the Corps, and Department of Justice lead the meetings. He discussed the issues they talked about and noted many things can be completed with proper diplomacy with tribal nations. Treating each other with respect and acknowledgement of each other's role and power is key. Mr. Fowler updated members on the DAPL litigation.

Dr. Lippert noted these are all issues the ACHP has talked about before. She said solving these issues can prevent future problems. The discussion of the historic preservation issues in North Dakota offers a chance for the work that the ACHP does to be propelled by this energy.

Katherine Slick said ancestral lands are an important component with tribal negotiations. She suggested what would help move the discussion forward is having a national map, county by county, where all of the tribes are notified on issues that come up. Danielle Schopp said the Department of Housing and Urban Development (HUD) has recently updated its tribal database tool on its website, so tribes that have an interest in a particular county are identified so HUD knows whom to go to for consultation.

Dr. Lippert asked how often SHPOs meet with the tribes. Face-to-face meetings could potentially resolve conflicts.

Ms. Hughes said SHPOs are not going to know where sacred sites or TCPs are, but what they should be doing is assisting federal agencies asking whom to consult with and to refer them to the tribal contacts the SHPOs have. SHPOs have a role in communication linkages, but there is a limit to their role in the conversation because it should be nation-to-nation consultation. NCSHPO could have a place on the Native American Affairs Committee.

Mr. Nelson noted keeping in mind the potential interest of industry in being able to successfully use these sorts of tools. They like predictability and access to information.

Broadband

Mr. Ayers said the FAP Committee heard from DHS and others on the effort to develop a Standard Treatment for Broadband properties on federal property. The ACHP members will soon be asked comment on a second draft of the Standard Treatment developed by DHS. The revised draft will be available in the coming weeks, and by mid-January it will be issued. No action to adopt the treatment will be necessary by the full council. Mr. Orner said he appreciated all the work ACHP staff has put into this.

Railroads

Mr. Ayers said the Federal Railroad Administration is making great progress in framing an exemption for railroads consistent with the requirements of the FAST Act. A revised draft will be sent early in 2017, and the ACHP will do its own consultation with preservation stakeholders and then work to issue the exemption.

Native American Affairs Committee

Vice Chairman Forsman said the committee has had several productive discussions about how the ACHP should proceed with Section 101(d)(5) agreements with Indian tribes. Two agreements are in effect so far. He is urging council members to comment on the guidance. He wants to move forward in a way to make the guidance relatively non-specific.

The NHPA requires the ACHP to determine if a tribe's procedures provide equivalent consideration for historic properties, so the committee has been deliberating about what elements of the Section 106

regulations need to be embodied in a tribe's procedures in order to provide "equivalent consideration." The NHPA requires the ACHP to consult with the appropriate SHPO when negotiating a 101(d)(5) agreement with a tribe.

He said the committee is generally comfortable with the approach in the guidance, so the next step is to share the draft with Indian tribes for their input. The draft guidance will be sent to tribal leaders and staff for review and comment, and the ACHP will host several teleconferences. The guidance could be issued early next year.

Ultimately, he would like to turn the guidance into formal procedures to be included in the reserved section of the regulations (800.15) but would like to work with Indian tribes under the guidance first. It will be a good way to work through any issues that may come up before adopting regulations.

Chairman Donaldson asked if the guidance could be completed before the March meeting. Vice Chairman Forsman said that could be achieved.

Building a More Inclusive Preservation Program

Mr. Stanton reminded members they adopted a strategic plan for youth engagement. There has been substantial progress made. The ACHP has been invited to present at a number of conferences, including Preservation Day at the U.S. Capitol. The ACHP is beginning to establish a presence at major venues in which it can share the activities of the council to promote youth engagement, inclusiveness, and diversity. Mr. Stanton said the Communications, Education, and Outreach Committee will reflect on the progress made over the last year and recommend to the ACHP some modification to the youth action plan.

Diversity Policy Statement

Chairman Donaldson said the agency has come a long way in trying to integrate particular concepts in including everybody to tell the right story. The statement has two components: a commitment to pursuing goals of diversity and inclusion in the work of the ACHP; and a commitment to maintaining a diverse and inclusive membership and staff.

Mr. Bean moved to adopt the policy statement, seconded by Mr. Tannenbaum. Mr. Hoyos said he was gratified to hear this is yet another example of cooperative work that has consequences across the entire country. The motion passed unanimously with a voice vote.

Policy Statement for Resilient Communities

Chairman Donaldson reminded members that the ACHP produced a report on historic preservation and "rightsizing" in 2014. Since then Mr. White has led a working group that has been developing a policy statement to promote the use of historic preservation tools in meeting those challenges.

Mr. White said the policy statement was adopted on October 26. This marked the final step in advancing the ACHP strategy on urging federal and nonfederal stakeholders to carefully consider historic preservation goals and values in communities experiencing change and revitalization effort. He discussed the distribution of the statement and the need to discuss community engagement.

White House Council on Climate Preparedness and Resilience

Mr. White said the ACHP is a member of the Council on Climate Preparedness and Resilience which has issued a new report, *Opportunities to Enhance the Nation's Resilience to Climate Change*. The report describes key Administration accomplishments and focuses on future opportunities. The ACHP had advocated for the report to address cultural resources. The report does so, notably in reference to

preserving community identity and sense of place. The PI Committee also discussed proposed regulatory changes by the Federal Emergency Management Agency (FEMA) and HUD to implement the new Federal Flood Risk Management Standard. Federal projects involving new construction and substantial rehabilitation have to meet new resilience requirements, often including elevation of structures. Also, the area now subject to these requirements has increased, thus affecting more properties.

The FEMA and HUD regulations exempt historic buildings from these requirements, which is positive given the need to be flexible in addressing historic properties. However, the exception applies only to properties already listed on the National Register or on a state inventory. ACHP staff recently provided comments to FEMA noting that the exemption should also apply to properties eligible for the National Register. Similar comments to HUD are under development. There is also some question about whether the HUD regulation will be finalized soon.

Legislation

Mr. White said the PI Committee reviewed the status of legislation, including Historic Preservation Fund reauthorization, proposed amendments for the ACHP, the 2017 Interior Appropriations Act, and the National Defense Authorization Act. He said the conference agreement has just been reached on the National Defense Authorization Act, and that the negative provisions of the Military LAND Act have not been included in the final version of the bill. Votes in both the House and the Senate should be held in the next week or so before adjournment.

OPI staff also analyzed the content and impact of the proposed Water Resources Development Act (WRDA) (H.R. 5303, S. 2848) being considered by the House and Senate. The bill addresses the needs of America's harbors, locks, dams, flood protection, and other water resources infrastructure. Four provisions in the competing versions of the WRDA specifically address cultural resources, particularly cultural resources of interest to Indian tribes. With assistance from the Department of Defense, the Corps was contacted to obtain its views on the relevant sections of the bills, but no response was received.

Mr. White moved that the ACHP supports:

- Sections 120 and 185 of the House version of the Water Resources Development Act (H.R. 5303); and
- Sections 1040 and 3007 of the Senate version of the Water Resources Development Act (S. 2848).

These provisions should enhance Corps consideration of historic properties (particularly those of interest to Indian tribes) in accordance with the Corps' program responsibilities under the National Historic Preservation Act and Section 3 of the Preserve America Executive Order, E.O. 13287.

Vice Chairman Forsman seconded the motion.

Ms. Jones asked if there was a Statement of Administration Policy on the bill. The House version has one, but the Senate version does not. Ms. Sullivan asked if there was a conference scheduled for this bill, and could action be deferred until the next Congress. Mr. Cassidy said he heard it might pass. Mr. White offered to split the motion to allow the federal agencies to vote regarding the House provisions

He then moved that the ACHP supports Sections 120 and 185 of the House version of the Water Resources Development Act (H.R. 5303) which should enhance Corps consideration of historic properties (particularly those of interest to Indian tribes) in accordance with the Corps' program responsibilities under the National Historic Preservation Act and Section 3 of the Preserve America Executive Order, E.O. 13287.

Vice Chairman Forsman seconded it. It passed unanimously with a voice vote.

Mr. White moved that the ACHP supports Sections 1040 and 3007 of the Senate version of the Water Resources Development Act (S. 2848) which should enhance Corps consideration of historic properties (particularly those of interest to Indian tribes) in accordance with the Corps' program responsibilities under the National Historic Preservation Act and Section 3 of the Preserve America Executive Order, E.O. 13287.

Vice Chairman Forsman seconded it. The motion passed in a roll call vote with 10 ayes and eight abstentions.

Mr. White said in addition to a letter that will be drafted, he suggested ensuring there is personal contact with staff from the appropriate committees.

At this time Mr. Cassidy left the table.

Mr. Fowler mentioned the ACHP amendments to convert the chairman to a full-time position and give NATHPO a voting seat on the ACHP are currently included in the energy bill and in versions of the National Park Service Centennial legislation.

New Business

Next year's meeting schedule is as follows: March 22-23 in Washington, D.C.; July 20-21 (the 50th anniversary of the first ACHP meeting) location to be determined; November 8-9, location to be determined.

The meeting adjourned with a motion from Mr. Tannenbaum and second by Vice Chairman Forsman.



**General Services Administration Emergency Operations Center
After Hour / Roll-Up Report for January 13 - 16, 2016**

Situation Reporting: This is a roll-up report for the events that occurred after hours and the impacts to GSA owned and leased facilities. Please see the information below.

Central Office: Operations Center (202) 219-0338

Nothing Significant to Report.

National Capital Region: John Bailey (202) 708-6330

Nothing Significant to Report.

Region 1: Lori Kabel (617)-531-9100

Nothing Significant to Report.

Region 2: Roy Crowe (202) 264-0596

Nothing Significant to Report.

Region 3: Maryann Toniazzo (215) 446-4911

Nothing Significant to Report.

Region 4: Stan Copeland (404) 331 0992

Nothing Significant to Report.

Region 5: Jeremy Niksic (312) 501-0027

On Sunday January 15, 2017, the EOC received notification that a protest that took place at the John C. Kluczynski Federal Building located at 230 South Dearborn Street, Chicago, IL. Approximately 500 people were on site protesting "March for Life" It was expected to reach over 400 participants. Local media were on the scene as well. This incident is now closed.

Region 6: Bobby Deitch (202) 208-5469

Nothing Significant to Report.

Region 7: David Waishes (817) 978-4440

Updated Information

On Sunday January 15, 2017, regional personnel reports the following updates: All the wet carpets have been removed, all vinyl cove base in the area have been removed, drying chamber are set in place, dehumidified heated air has been injected into the space, and , extra heat has been added into the corridor at the east end of the third floor to assist in drying the plastered ceiling. The EOC will continue to monitor this incident and provide updates as they become available.

Original Information

On Saturday January 14, 2017, Regional personnel reported that water damage occurred at the Federal Building located at 700 West Capitol Avenue, Little Rock, AR. The waterline was accidentally broken by the electrician above the ceiling while installing electrical conduit for fire sprinkler project.

On Sunday January 15, 2017, the EOC received notification of a protest that took place at the GT Leland Federal Building, 1919 Smith Street, Houston, TX. Approximately 225 peaceful demonstrators were on site rallying for Martin Luther King -" Save Affordable Care Act". Four media outlets were on hand as well. This incident is now closed.

Region 8:

Vickie Deal (303) 236-8078

Nothing Significant to Report.

Region 9:

Catherine L. Looper (415) 535-9364

On Saturday January 14, 2017, at 12:19 pm the EOC received notification that a demonstration took place at the Robert F. Peckham Federal Building located at 280 S. 1st Street, San Jose, CA. Approximately 200 demonstrators were on hand with media protesting immigration. This incident is now closed.

Region 10:

Kay Lynn Smartt (253) 394-2643

On Monday January 16, 2017, at 10:32 am PST, the EOC received notification of a protest at the Jackson Federal Building, 915 2nd Avenue, Seattle, WA. Approximate 5000 peaceful protesters were viewed heading westbound toward the building. The group contained members of "Black Lives Matter" and anti-Trump demonstrators. At 3:12pm FPS advised that that all participants had cleared from the federal property. This incident is now closed.

***Acting DRD**

On Duty Watch Officer: Patricia Jackson

Approving Official: Renee Fossett